

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 761 w/CS Possession of Firearms  
**SPONSOR(S):** Wishner  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 2660

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	6 Y, 0 N	Cole	De La Paz
2) Public Safety & Crime Prevention	16 Y, 0 N w/CS	Cole	De La Paz
3) Public Safety Appropriations	7 Y, 0 N	Davis	DeBeaugrine
4) Appropriations			
5)			

---

### SUMMARY ANALYSIS

Current law prohibits juvenile delinquents who commit felony level offenses from possessing firearms, electric weapons, or tear gas/chemical weapons until they reach the age of 24. If the delinquent is not convicted of a felony after he or she turns 18 years old, then the prohibition against possessing these type of weapons ends at the age of 24. HB 761 extends the prohibition against possessing any of the listed weapons until the person is 34 years of age if the delinquent act that the juvenile committed is among the list of forcible felonies defined in s. 776.08, F.S., which are specified in the bill.

Current law requires that juvenile criminal histories be merged with adult records if the person is charged with, or convicted of, a forcible felony after their 18<sup>th</sup> birthday. This bill requires that all juvenile criminal history records be maintained and merged with adult criminal history records if the offense the juvenile was adjudicated delinquent of was one of a list of forcible felonies which are specified in the bill.

There does not appear to be any fiscal impact to this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0761d.ap.doc  
**DATE:** April 2, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Section 790.23, F.S., prohibits juvenile delinquents from possessing firearms, electric weapons or devices, and tear gas or chemical weapons if they have been found to have committed a felony until they reach the age of 24. The prohibition ceases to exist at the age of 24 no matter what the felony was that the juvenile committed.

This bill continues the prohibition for an additional ten years, to 34 years of age, if the delinquent act that the juvenile was adjudicated of was any of the following forcible felonies provided in s. 776.08, F.S.: treason, murder, manslaughter, sexual battery, carjacking, robbery, arson, kidnapping, aggravated battery, aggravated stalking, aircraft piracy, and unlawful throwing, placing or discharging of a destructive device or bomb.

This bill also applies if the felony offense(s) were committed in another state, territory, or country.

Section 943.0515(1)(a), F.S., requires that a juvenile delinquent's criminal history be retained for 5 years after their 21<sup>st</sup> birthday if the delinquent has been classified as a serious or habitual juvenile offender or was committed to a juvenile correctional facility. Section 943.0515(2)(a), F.S., requires a juvenile's criminal history be merged with the adult record if they are charged with or convicted of a forcible felony after the age of 18.

This bill would require that a juvenile's criminal history be merged with his or her adult record if the delinquent act that they were adjudicated of was treason, murder, manslaughter, sexual battery, carjacking, robbery, arson, kidnapping, aggravated battery, aggravated stalking, aircraft piracy, and unlawful throwing, placing or discharging of a destructive device or bomb.

The bill will prohibit juvenile delinquents from possessing firearms, electric weapons, and chemical/tear gas weapons to the same extent that adults who are convicted of felonies are under s. 790.23(1)(a-e), F.S.

#### C. SECTION DIRECTORY:

- Section 1:** Amends s. 790.23, F.S., relating felons and delinquents in possession of certain weapons.
- Section 2:** Amends s. 790.06, F.S., relating to the issuance of concealed weapons permits.
- Section 3:** Amends s. 790.065, F.S., relating to the sale and delivery of firearms.
- Section 4:** Amends s. 943.0515, F.S., relating to the retention of criminal history records.
- Section 5:** Reenacts s. 790.01, F.S., relating to carrying concealed weapons.
- Section 6:** Reenacts s. 921.0022, F.S., relating to the criminal punishment code.
- Section 7:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Juvenile Justice reports that this bill does not appear to have a fiscal impact.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

No exercise of rulemaking authority is necessary to implement the provisions of this bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

A strike all amendment was adopted by the Criminal Justice Subcommittee and the Public Safety and Crime Prevention Committee that replaced the language specifying offenses committed with firearms, electric weapons or devices, or chemical /tear gas weapons to offenses classified as a forcible felony under s. 776.08, F.S. to be offenses that would disqualify delinquents from owning a firearm. The strike all amendment also will preclude those juveniles who are adjudicated delinquent for a forcible felony from possessing a firearm until their 34<sup>th</sup> birthday. The current restriction on adjudicated delinquents that prohibits them from possessing firearms until they are 24 years of age will still apply to juveniles adjudicated delinquent for non-forcible felonies. The strike all amendment also requires that any juvenile who has been adjudicated delinquent of a forcible felony shall have his or her juvenile criminal history merged with their adult criminal history.

The Public Safety & Crime Prevention Committee adopted an amendment that removed the crime of "burglary" and " any other felony which involves the use or threat of physical force or violence against any individual" from the list of forcible felonies as defined in s. 776.08, F.S. that will be merged with a delinquents adult criminal history.